

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CASCADE GENERAL, INC.,)	
)	No. 05-1334-HU
Plaintiff,)	
)	
v.)	
)	OPINION AND ORDER
)	
)	
POWERHOUSE DIESEL SERVICES,)	
INC.,)	
)	
Defendant.)	
)	

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HUBEL, Magistrate Judge:

Plaintiff Cascade General, Inc. (Cascade) moves the court to
correct the record with respect to the applicable statute governing

1 the award of attorney's fees. The motion is denied because
2 attorney's fee rulings are not necessary as part of the court's
3 Findings of Fact and Conclusions of Law contained in the Opinion
4 entered November 9, 2007. Pursuant to Rule 54(d)(2) and LR 54.3,
5 attorney's fee claims are to be raised by motion after trial.

6 That being said, Cascade is correct that the governing statute
7 for allocating attorney's fees when claims and counterclaims are
8 made on the same contract is Or. Rev. Stat. § 20.077 (2005). See
9 Robert Camel Contracting, Inc. v. Krautscheid, 205 Or. App. 498
10 (2006). Under § 20.077, the "prevailing party" is to be determined
11 on a "claim by claim" basis. Id. at 504.

12 In this case, both Cascade and defendant Powerhouse Diesel
13 Services, Inc. alleged claims for breach of contract. The court
14 awarded both parties damages on those claims; thus, both parties
15 prevailed on their claims and both are entitled to an award of
16 attorney's fees incurred on those claims for which each prevailed.

17 Cascade's Motion to Correct (doc. # 124) is DENIED.

18 IT IS SO ORDERED.

19 Dated this 25th day of March, 2008.

21 /s/ Dennis James Hubel
22 Dennis James Hubel
23 United States Magistrate Judge
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